

REMARKS

Claims 1-14 are pending in the application.

Claims 7 and 9, 10, 12, and 13 are original.

Claims 1, 2, 5, 6, 8, 11, and 14 are currently amended.

Claims 3 and 4 are cancelled.

Claims 15 and 16 are new.

Claims 1, 2, and 5-16 would be all of the claims pending in the application if the amendment in this paper is entered.

Discussion of Current Amendments

Claims 1 and 2 are amended to delete subject matter of a non-elected invention. Claim 1 is further amended to insert the definition of pyrido N-oxide from the specification on page 120, at lines 10-20, and to correct a typographical error in the definition of the substituent Q.

Claim 5 is amended to delete the dependencies from Claims 3 or 4, as Claims 3 and 4 are cancelled, and to advance prosecution for the reason given below.

Claims 6 and 8 are amended to insert the definitions of the groups R¹ and R² from the specification on page 15, at line 20, to page 19, at line 24, and on page 25, at line 24, to page 29, at line 27, respectively, and to insert the definition of pyrido N-oxide from the specification on page 120, at lines 10-20.

Claims 11 and 14 are amended to advance prosecution for the reason given below.

Claims 3 and 4 are cancelled because they were made redundant by the amendments to Claims 1 and 2 that deleted non-elected subject matter.

New Claims 15 and 16 find support in the specification on page 10, at lines 23-25, and on page 14, at lines 11-13, respectively.

Elections/Restrictions

Regarding items 2-4 of the Office Action, Applicant hereby affirms the previous election of the invention of Group I, Claims 1-14, drawn to compounds of formula I where Y^1 represents $C(O)$, Y^2 and Y^3 together form a diradical group $-N=C(R^3)-$ and Q represents $OC(O)$, $CH(R^5)C(O)$, $CH(R^5)C(NR^5)$, $CH_2N(R^5)$, $CH(R^5)C(S)$, $trans-(H)C=C(H)$, $cis-(H)C=C(H)$, $C\equiv C$, $CH_2C\equiv C$, $C\equiv CCH_2$, $CF_2C\equiv C$, $C\equiv CCF_2$, or $C\equiv CC(O)$, pharmaceutical compositions containing these compounds and a method of using these compounds, classified in class 544, subclass 279. Applicant hereby withdraws the traverse.

In the above description, Applicant has clarified the Examiner's definitions of Y^2 and Y^3 and Q in the invention of Group I, as supported by original Claim 1.

Claim Objections

In item 5 of the Office Action, Claims 5, 11, and 14 are objected to under 37 C.F.R. § 1.75(c) as allegedly being in improper form because a multiple dependant claim should refer to other claims in alternate only.

Applicant respectfully traverses the objection because Applicant's original phrase in Claim 5, particularly "according to any one of Claims 1-4," is functionally equivalent to the phrase "as in one of claims 4-7" that is recited in the eighth example in section "A. Acceptable Multiple Dependant Claim Wording" of MPEP 608.01(n) and Applicant's original phrase in Claims 11 and 14, particularly "according to Claim 7 or 9," is functionally equivalent to the phrase "as in claim 2 or 3" that is recited in the fifth example in the section. However to

advance prosecution and avoid the possibility that the objection would be maintained, Claims 5, 11, and 14 have been amended to literally comply with the form of the fifth example in section “A. Acceptable Multiple Dependant Claim Wording” of MPEP 608.01(n). Applicant believes that the amendments to Claims 5, 11, and 14 do not narrow the scope of the claims. The amendments are not being made for reasons of patentability.

Claim Rejections - 35 U.S.C. § 112

In items 6 and 7 of the Office Action, Claims 1-14 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner alleged that the term “pyrido-N-oxide” is indefinite and variables R¹ and R² in Claims 6 and 8 are not defined.

Applicant respectfully traverses this rejection because Claims 3 and 4 are cancelled, rendering the rejection of Claims 3 and 4 moot, and because the definition of pyrido-N-oxide has been added to Claims 1, 6, and 8 and the definitions of variables R¹ and R² have been added to Claims 6 and 8, and thus also to Claims 2, 5, 7, and 9-14, which depend therefrom. Applicant believes that Claims 1, 2, and 5-14 particularly point out and distinctly claim the subject matter applicant regards as the invention and are thus patentable under 35 U.S.C. § 112, second paragraph. Applicant believes that the amendments adding definitions of pyrido-N-oxide to Claims 1, 6, and 8 and variables R¹ and R² to Claims 6 and 8 do not narrow the scope of these claims, or to Claims 2, 5, 7, and 9-14, as the subject matter being added was read into the original claims.

In item 8 of the Office Action, Claims 1-5 and 10-14 are objected to as allegedly containing non-elected subject matter. Applicant respectfully traverses this objection because Applicant believes that the non-elected subject matter has

been deleted from Claims 1-5 and 10-14 by the above amendments to Claims 1 and 2.

Allowable Subject Matter

In item 9 of the Office Action, the Examiner stated that the instant compounds are allowable over the prior art.

Supplemental Information Disclosure Statement

Applicant herewith makes available to the Patent and Trademark Office a Supplemental Information Disclosure Statement on forms PTO/SB/08A and/or PTO/SB/08B and copies of the art cited thereon except any U.S. patent or patent application publication documents.

Applicant respectfully requests that the Examiner consider carefully the complete text of the cited reference(s) in connection with the examination of the above-identified application in accord with 37 CFR §1.104(a).

It is respectfully requested that all cited reference(s) considered by the Examiner be listed in the "References Cited" portion of any patent issuing from the instant application (MPEP § 1302.12).

Conclusion

In view of the above amendments and remarks, Applicant believes that a proper response to the restriction requirement has been made and that the objection to Claims 5, 11, and 14 under 37 C.F.R. § 1.75(c), the rejection of Claims 1-14 under 35 U.S.C. § 112, second paragraph, and the objection to Claims 1-5 and 10-14 as allegedly containing non-elected subject matter have been overcome. Applicant respectfully requests reconsideration of Claims 1, 2, and 5-14 and consideration of new Claims 15 and 16.

The undersigned would welcome a telephone call from the Examiner to discuss any matters related to this case that the Examiner thinks are amenable to resolution by such discussion.

Respectfully submitted,

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